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REPORTER'S RECORD

TRIAL COURT CAUSE NO. S-17-5182-CV-B

| | | |
|--------------------------|---|----------------------------|
| DENISE MAREZ |) | IN THE DISTRICT COURT |
| INDIVIDUALLY AND ON |) | |
| BEHALF OF THE ESTATE |) | |
| OF JUAN PEREZ, |) | |
| Plaintiff |) | SAN PATRICIO COUNTY, TEXAS |
| VS. |) | |
| |) | |
| ISAAC G. RODRIGUEZ, SR.) |) | |
| d/b/a I&R TRUCKING AND) |) | |
| RODRIGUEZ TRUCKING) |) | |
| Defendant(s) |) | 156TH JUDICIAL DISTRICT |

TRIAL ON THE MERITS

(Opening Statements - 12-10-19)
 (Closing Statements - 12-11-19)

On the 10th-11th days of DECEMBER, 2019
 the following proceedings came on to be heard in the
 above-entitled and numbered cause before the HONORABLE
 PATRICK FLANIGAN, Judge Presiding, held in Sinton, San
 Patricio, County, Texas:

Proceedings reported by Stenograph
 Machine.

1 APPEARANCES:

2

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7 ATTORNEYS FOR PLAINTIFF(S)

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-AND-

9

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13 ATTORNEY FOR DEFENDANT(S)

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TRIAL ON THE MERITS

(Opening Statements - December 10th, 2019.)

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4 THE COURT: Does the Plaintiff wish to
5 make an opening statement?

6 MR. DUFF: Yes, Your Honor.

7 THE COURT: You may proceed.

8 MR. DUFF: Your Honor, permission to grab
9 the podium?

10 THE COURT: Yes, sir.

11 THE BAILIFF: I've got one right here.
12 Already ahead of you.

13 MR. DUFF: May it please the Court?

14 THE COURT: Yes, sir.

15 MR. DUFF: Mr. Thomas?

16 Members of the jury, my name is John
17 Duff, one of the attorneys that has the privilege and
18 honor of representing Denise Marez in a case that was
19 brought against the Defendants. I represent Denise
20 Marez. She is sitting here right with us today, along
21 with my Co-Counsel, John Martinez and Alex Hilliard.
22 Briefly, I want to introduce Denise to y'all. Can
23 you, please, stand up. Ladies and gentlemen of the
24 jury, this is Denise Marez. She's the widow of Juan
25 Perez and you'll hear today that Juan Perez died at

1 the Defendants' property and this is a wrongful death
2 case. You'll also hear that Denise had married Juan
3 about a year before they -- before he passed away and
4 they'd been dating for approximately four or five
5 years before they actually got married. And they
6 actually got married right here in this courtroom in
7 this courthouse. Judge Simpson is the one that
8 married them. Ladies and gentlemen of the jury, this
9 is Denise. Please, have a seat. Thank you.

10 First, I'd like to thank each and
11 every one of you for being here. I know Judge
12 Flanigan said it yesterday, but a lot of people don't
13 show up for jury duty. They refuse to participate in
14 this process and they refuse to invoke their civic
15 duty to hear cases and try -- hear cases that are
16 being tried and we just want to thank you-all for
17 being here today. You know, as Americans we have the
18 right to a trial by jury. The 7th Amendment
19 guarantees us that. We have the right to bring our
20 cases in front of people, just like you, in front of
21 our peers when we feel we've been wronged and that's
22 what Denise is doing here today.

23 A lot of people don't understand the
24 responsibility and the power that comes with being on
25 the jury. You are the sole judge of the credibility

1 of each witness you will hear in the next few days.
2 You will get to weigh the evidence as you see fit.
3 You will hear conflicting testimony in this case, but
4 that's what trial is for. The Plaintiffs will have
5 our side; the Defendants will have their side. The
6 power that comes with this duty is one of the biggest
7 powers known in our society. You guys have the power
8 to be heard and the power to make a decision based on
9 credible evidence and that's what we're going to ask
10 you to do these next few days. We're going to ask you
11 to be patient with us, to listen carefully to all of
12 the testimony that you're going to hear from each
13 witness and carefully review all the evidence before
14 rendering a verdict.

15 As Judge Flanigan said yesterday, this is
16 an important case. It's an important case because we
17 have a man that died; a man 60 years old as healthy as
18 he could be and he died on the Defendants' property
19 because of the dangerous condition that existed on
20 that property. As I stated, there are disputed facts
21 in this case and when everyone goes home at 4:30,
22 5:00, and I'll speak for Mr. Thomas and our team, we
23 both go back to the office. We both work tirelessly
24 to prepare to present you tomorrow's case and the next
25 day's case. So, again, thank you-all for being here

1 and listening to us and being patient with us.

2 Now, this is my chance to get to tell you
3 about the facts of this case; the facts that we could
4 not tell you about yesterday and the facts that I
5 could tell some of you were wanting to hear more
6 about. We have a man by the name of Juan Perez. He
7 was 60 years old and he died on Defendants' property.
8 He left behind his wife and a daughter that he loved.
9 Denise is here today to tell you about the man he was,
10 how much he cared for her, how much she cared for him,
11 how that he was her rock and her support. You'll hear
12 how they started dating, how he proposed to her, when
13 they got married, shortly thereafter when he passed
14 away. You'll hear and you'll see from the testimony
15 of Denise this left a gaping hole in her life and her
16 heart. This was her rock. This was her support and
17 he was gone. Over the next few days you will hear
18 from witnesses who knew Juan Perez well and you will
19 hear from the witnesses who were there when he died.
20 You will also hear testimony and you'll see evidence
21 showing that Juan was an employee of the Defendants.
22 Isaac Rodriguez, Sr. had known Juan since he was four
23 years old. Juan had worked there for 17 years.
24 You'll also see paychecks from Rodriguez Trucking or
25 sometimes called I&R Trucking. You'll see load

1 tickets. You'll also see payments to him as a laborer
2 for Rodriguez Trucking. Ladies and gentlemen, this is
3 not a criminal case. We're not here today to prove to
4 you beyond a reasonable doubt that the Defendants
5 intended for this man to die. We're not saying that
6 they intentionally killed him; they wanted him to die.
7 As Mr. Martinez said to you yesterday, this is a case
8 that we have to prove to you by a preponderance of the
9 evidence. Like he said, that's just a tipping of the
10 scales. We're going to prove this to you by showing
11 that the Defendants knew of this dangerous condition
12 that existed on their property; that they failed to
13 warn Juan about this dangerous condition and they
14 failed to provide him any safety training or safety
15 equipment to safely complete the task of the day. You
16 will also see OSHA citations, and for those of you who
17 don't know what OSHA is, it's the Office of Safety and
18 Health Administration. They are the ones that tell
19 employers how to safely protect their employees, what
20 they're supposed to do to protect employees that are
21 doing dangerous tasks. You'll see a citation that's
22 going to be titled a serious violation, according to
23 OSHA, that they failed to protect this employee on the
24 roof of a fall hazard greater than ten feet.
25 Essentially, that means that they failed to provide

1 him any safety harness, anything to protect him from
2 falling through this rotted roof. You'll see that
3 these OSHA citations will prove the Defendants
4 blatantly disregarded OSHA regulations. They chose
5 not to listen, and that was the cause of Juan's death.
6 You will see pictures of what this roof looked like.
7 You'll see the hole that Juan fell through. You'll
8 see how he landed 12 feet below on this cold cement
9 ground of Rodriguez Trucking. You'll see pictures of
10 him lying there, blood coming out of his eyes. They
11 are going to be tough, but we have to show them to
12 you. You have to see how this man passed away. You
13 will also see the death certificate to show that his
14 cause of death was falling 12 feet landing on his back
15 on cement ground below him.

16 You will also hear testimony from some of
17 the Defendants in this case. Their theory in this
18 case is that Juan snuck onto the property. He was
19 trespassing. He had no business being there. No one
20 saw him there. What was he doing there? These are
21 all smoking mirrors to distract you from their
22 responsibility.

23 MR. THOMAS: Judge, I'd object to any
24 argument made during opening statements.

25 THE COURT: Sustained.

1 MR. DUFF: The evidence will show that
2 the Defendants disregarded their duty to Juan Perez.
3 The evidence is further going to show that the
4 Defendants knew of the risk that they were taking and
5 put this man's life in jeopardy. You will hear from
6 Denise. She will tell you that she knew that Juan was
7 supposed to be working on the roof that day, that Juan
8 was a truck driver. He wasn't a roofer. He had no
9 business being on that roof, but as some of you know,
10 when our employees -- or when our employers ask us to
11 do something, we have to do it. We have to put food
12 on the table for our families. The testimony you will
13 hear him say will tell you that Juan didn't want to be
14 on that roof, but sometimes we got to do what we got
15 to do.

16 On March 7th, 2015, the date of Juan's
17 death, started out like any other morning for him and
18 Denise. He woke up at 5:30, got ready for work, made
19 a cup of black coffee, kissed his wife good-bye for
20 the last time. You will hear testimony that the
21 Defendants failed to warn Juan of how rotted this roof
22 actually was, failed to provide him any type of
23 protection that he would need on this roof. You will
24 see that replacing these metal sheets on the Rodriguez
25 Trucking garage was not a task for just one man.

1 These metal sheets were about six feet tall and about
2 three feet wide. Took two people to do this job.
3 They're going to tell you that they hired one man to
4 do this job and that one man's name was Rosario
5 Hernandez, that he was somehow supposed to carry these
6 metal sheets up 15 feet in the air, put them on the
7 roof by himself, that Juan had no business being
8 there.

9 Members of the jury, you alone are the
10 judges of the credibility of these witnesses. If you
11 think the testimony here just doesn't add up, doesn't
12 make sense, this Judge will instruct you later you can
13 disregard it. So when you're hearing the evidence,
14 when you're hearing the testimony, please, use your
15 common sense and figure out what actually makes sense
16 in this case. By the end of this case, you will see
17 that the Defendants failed to provide Juan a safe
18 workplace, failed to provide him with any kind of
19 safety training, failed to provide him with any safety
20 harness so he could safely do the task at hand. As I
21 stated, Juan was not a roofer. He needed these
22 protections put in place. He needed his employer to
23 do the right thing, to be a responsible employer, and
24 the evidence will show it's far from what they were.
25 These failures committed by the Rodriguezs, and

1 Rodriguez Trucking, as the evidence will show, were
2 the direct cause of Juan's death. As I stated, you
3 will see pictures of Juan laying on the cold cement
4 ground of Rodriguez Trucking. You will also hear
5 testimony that EMS wasn't called or didn't arrive for
6 several hours, that no lifesaving measure was
7 performed on Juan to try and save him. You'll hear
8 testimony that they didn't know what to do. They
9 couldn't take him to the nearest hospital.

10 Ladies and gentlemen of the jury, the
11 Rodriguezs have a duty. Their duty is to protect
12 their employees. So when we get up here at the end of
13 this case, my Co-Counsel or I will get up here, and
14 we'll walk through all the evidence one more time.
15 We'll show you the OSHA citation. We'll show you
16 stacks and stacks and stacks of payments from
17 Rodriguez Trucking to Juan showing that he was an
18 employee of Rodriguez Trucking. At that time, we will
19 ask you to return the only verdict that the evidence
20 supports and that's a verdict holding the Defendants
21 liable for Juan's death. Thank you.

22 THE COURT: Thank you, Counsel.

23 Mr. Thomas, do you wish to make an
24 opening statement at this time?

25 MR. THOMAS: I do, Your Honor. Thank

1 you.

2 THE COURT: Go ahead.

3 MR. THOMAS: Please the Court? Counsel?

4 Good morning, ladies and gentlemen. Glad
5 everyone's here today. Thank you-all for coming back.
6 Listening to Plaintiff's Counsel opening statement,
7 it's good we have finders of fact here to determine
8 what the facts in this case actually are, because I
9 can tell you the Defense and the Plaintiff are very
10 far apart in what the facts actually were on this day
11 in question. Mr. Rodriguez, Isaac Rodriguez, you met
12 him yesterday. He is the father and grandfather of a
13 large family here today, as well. And he has been in
14 the trucking business basically his whole life. He
15 owns I&R Trucking. That's his business. He has
16 employees that work for him off and on, seasonally;
17 employee, contractor, truck drivers when there's work,
18 basically. And Juan Perez was a truck driver and he
19 did, in fact, work time to time for Mr. Rodriguez.
20 That's not in dispute. The problem with the
21 Plaintiff's story is that in January of 2015, Mr.
22 Perez ceased working for Rodriguez Trucking or I&R
23 Trucking. This accident occurred in March of 2015,
24 almost three months later, two months later. And you
25 will get to hear from Rosario Hernandez who was the

1 handyman working for Mr. Rodriguez that day on the
2 location. So Mr. Perez, the truck driver, who had
3 worked off and on for I&R Trucking showed up
4 uninvited, unannounced, unknown even to Isaac
5 Rodriguez that he was there on this day in March and
6 for some reason or not ended up on the roof of this --
7 this work shed and you'll see pictures of that. And I
8 have the same question as Mr. Duff did. "Why is a
9 truck driver on the roof at this facility?" This work
10 is something he'd never done before, to my knowledge.
11 Mr. Hernandez, Rosario Hernandez, will tell you that
12 he told Mr. Perez, "Hey, you're not supposed to be up
13 here. Get off." And he even said, "Watch out. Watch
14 where you walk because I'm replacing the fiberglass
15 roof with metal. You're not supposed to be here. Get
16 off the roof." And then he turned around and went
17 back to work using a drill and power tools that he
18 couldn't hear. Next thing Rosario knows is Isaac
19 Rodriguez is yelling at him that Mr. Perez has fallen
20 through and landed on the ground. And they did call
21 911 immediately. Now, this location is kind of remote
22 in the Mathis area and so I think EMS had some
23 difficulties locating the premises, but as soon as
24 they discovered Mr. Perez's body on the floor, they
25 did call 911. And those are the facts that we're here

1 about. That's the synopsis of the facts and I think
2 you'll see that's undisputed. Mr. Perez, a truck
3 driver, who had ceased working for Mr. Rodriguez in
4 January of 2015, shows up at the property in March of
5 2015, unaware if any -- if Mr. Rodriguez is even aware
6 he's there, climbs up on the roof because he sees
7 Rosario Hernandez up there changing out the roofing.
8 And he's told, "Hey, what are you doing up here? You
9 need to get down." And he's 60, 61, 60 years old.
10 Why is he up on the roof to begin with? That's a
11 question nobody can answer, unfortunately. And then
12 the tragedy, the accident happens. He apparently
13 falls through and his body is found. And it is
14 tragic, and it is a tragedy, and I'm sorry it's
15 happened and I know Mr. Rodriguez is sorry it's
16 happened. I mean, imagine finding a body. That's a
17 terrible thing for anybody to have to experience or to
18 deal with, but there was no breach of any duty owed
19 Mr. Perez. Mr. Perez was there without permission to
20 be there. There was no dangerous condition created
21 that Mr. Perez was asked or exposed to. He chose to
22 climb up there all, without any direction, on his own
23 and sometimes, ladies and gentlemen, accidents are
24 just accidents, and that's the fact. And it's tragic
25 because Mr. Perez lost his life and we're very sorry

1 about that, but just because accidents happen doesn't
2 mean that someone should file a lawsuit and receive
3 money for that. And I think you'll agree with me at
4 the end of the evidence and you'll find for Mr.
5 Rodriguez in this case. So I'd like to thank you-all
6 in advance again for your participation, for your
7 attention. I do want you to pay close attention to
8 all the evidence because it is an important case and
9 important case for everyone. Thank y'all.

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(END OF OPENING STATEMENTS.)

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1 THE COURT: Counsel?

2 MR. DUFF: The binder is good and
3 prepared and ready to send back to the jury.

4 THE COURT: Okay. Then if you'll just
5 hand that over to the court reporter. It's in her
6 capable hands, and other than the jury, she'll keep
7 custody of that.

8 How long would y'all like to have for
9 argument?

10 MR. DUFF: We're going to need about an
11 hour, Your Honor.

12 THE COURT: Okay. And do you want to
13 break that up?

14 MR. DUFF: Yes. Probably about 45
15 minutes for the first part and 15 minutes for the
16 final.

17 THE COURT: And what type of warnings, if
18 necessary, would you like to have, if any? Want a
19 five-minute warning, two-minutes?

20 MR. DUFF: A five-minute warning, Your
21 Honor.

22 THE COURT: Okay. Mr. Thomas?

23 MR. THOMAS: I won't use anywhere close
24 to that amount of time, --

25 THE COURT: Okay.

1 MR. THOMAS: -- but I don't think I'll
2 need a warning, Your Honor.

3 THE COURT: Okay.

4 MR. THOMAS: I will reserve an hour, but
5 I will not use it.

6 THE COURT: Okay, I can just have the
7 bailiff drag you off. No.

8 All right. Anything else, Counsel?

9 MR. DUFF: No, Your Honor.

10 THE COURT: Thank you very much. No?

11 MR. THOMAS: No, Judge.

12 (In recess.)

13 THE COURT: I think that was the proposal
14 we were talking about yesterday and nothing's changed
15 for today, is that correct?

16 MR. DUFF: Nothing's changed, Your Honor.
17 We will be substituting this exhibit binder for the
18 ones that we had previously admitted in this case.

19 THE COURT: For the jury to be able to
20 use during their deliberations up in the jury room?

21 MR. DUFF: Yes, sir.

22 MR. MARTINEZ: I believe that they will
23 also be, for the record, for the court reporter to
24 submit these exhibits as the exhibits on the record
25 for --

1 THE COURT: For appellate purposes.

2 MR. MARTINEZ: Yes, sir.

3 THE COURT: Yeah, okay. Yeah, they will
4 be the official documents, the official exhibits, that
5 will be maintained by the court reporter for that,
6 even though we do have the originals, as well. I
7 think we all agreed and everybody stipulated that the
8 documents in the binder are complete, true and
9 accurate photocopies of the original exhibits as
10 previously tendered to the Court and admitted into
11 evidence and at least some of them were published to
12 the jury, with the exception of a few redactions that
13 were necessary and approved by the Court regarding
14 personal identifying information.

15 MR. MARTINEZ: And, for the record
16 purposes, we would ask the Court to allow us to
17 substitute the exhibits in this binder with the
18 exhibits that have been previously marked and used as
19 the exhibits in court.

20 THE COURT: The binder of exhibits
21 substituted for those --

22 MR. MARTINEZ: Yes, sir.

23 THE COURT: -- documents? Yes, granted.

24 MR. MARTINEZ: Thank you.

25 MR. DUFF: And also we do have a CD disk

1 for Exhibit 10 and a USB flash drive.

2 THE COURT: Okay.

3 MR. DUFF: Would you like to label both
4 of them as Exhibit 10?

5 THE COURT: No. We'll just have the CD
6 as Exhibit 10 for the ultimately made part of the
7 record exhibit. The flash drive is of the same
8 content, but we'll treat the flash drive as we will
9 the previously admitted documents that are being
10 substituted for.

11 MR. DUFF: Thank you, Your Honor.

12 THE COURT: Okay.

13 (In recess.)

14 THE BAILIFF: They're all here.

15 THE COURT: Okay. Counsel, what I'm
16 going to do is go ahead and -- well, let's get on the
17 record regarding the Charge of the Court. We do have
18 the proposed Charge of the Court. Any objections by
19 the Plaintiff from -- regarding the most recent
20 version or draft?

21 MR. DUFF: No objections, Your Honor.

22 THE COURT: Any additional requests?

23 MR. DUFF: No, Your Honor.

24 THE COURT: Mr. Thomas, on behalf of the
25 Defense, any objections to the proposed Charge?

1 MR. THOMAS: No. And just for the
2 record, to be clear, we're talking about a Jury Charge
3 that has 15 pages and has been changed in the style.
4 I have no objection.

5 THE COURT: Yes. All right. Any
6 additional requests?

7 MR. THOMAS: No, Your Honor.

8 MR. HILLIARD: Your Honor, we did have
9 the one preliminary matter regarding the exhibit list
10 being read into the record.

11 MR. DUFF: We did that.

12 MR. HILLIARD: I apologize.

13 THE COURT: No, we talked about that. If
14 you wanted to do that, that's fine. I did get on the
15 record a stipulation that what is contained in the
16 binder has been examined by both Plaintiff and Defense
17 Counsel, reviewed that, are satisfied that all of
18 those are true and accurate photocopies of the
19 original exhibits. We'll be using the binder for
20 purposes of the record and for purposes of the jury
21 having access to that during deliberations. Didn't
22 see anybody made a particular request needed to have
23 all of the individual pages of the exhibits or the CD
24 particularly or specifically identified. Is that
25 correct?

1 MR. DUFF: Yes, Your Honor.

2 MR. THOMAS: Correct.

3 THE COURT: Okay. What I'm going to do
4 is we'll have the jury brought in. I'll read the
5 Charge to them. I'm going to go ahead and make
6 photocopies of the Charge for each of the jurors to
7 have a photocopy of that. The original, though, will
8 be the only one that has the verdict form, so we've
9 just got one of those, and they can use that to review
10 during their deliberations, make notes, make paper
11 airplanes, whatever they want to do with those, but
12 they'll just have the one verdict form to be completed
13 by the Presiding Juror. Any objection to that?

14 MR. DUFF: No objection, Your Honor.

15 MR. THOMAS: No, Your Honor.

16 THE COURT: Okay. Have you got the extra
17 copy? I had gotten two at one time.

18 MR. DUFF: Approach?

19 THE COURT: Yes. Would you take this to
20 Sylvia and have her make 11 copies of all those pages.

21 THE COURT CLERK: Okay.

22 THE COURT: Thank you. Anything else,
23 then?

24 MR. DUFF: No, Your Honor.

25 MR. THOMAS: No.

1 THE COURT: Okay. Thank you very much.

2 (In Recess.)

3 THE COURT: For the record in this cause,
4 in reviewing the Charge as it's been proposed and
5 accepted by the parties, we are down to Defendant of
6 Isaac Rodriguez, Sr., d/b/a I&R Trucking and Rodriguez
7 Trucking. I take from the Plaintiff's comments
8 yesterday afternoon and this morning that you're
9 providing oral notice of nonsuit regarding the
10 remaining Defendants, is that correct?

11 MR. DUFF: Yes, Your Honor, that's
12 correct.

13 THE COURT: All right. I just wanted to
14 make sure that was clear on the record. The Court's
15 going to accept that. That will be part of my
16 notation without a written notice of nonsuit, but I
17 think we're all on the same page. Everybody ready to
18 have the jury brought back in for closing arguments?

19 MR. DUFF: Plaintiff's ready, Your Honor.

20 MR. THOMAS: We're ready, Your Honor.

21 THE COURT: All right. Bring them in,
22 Robert.

23 THE BAILIFF: All rise for the jury.

24 (Jury in.)

25 THE COURT: All right. Be seated,

1 please. Good morning, ladies and gentlemen. Thank
2 you for being here, once again, on time and getting
3 back here safely. I hope nobody had any issues with
4 the morning or spring-time weather that we're
5 experiencing right now.

6 As we concluded yesterday, both sides had
7 presented all of the evidence that they were going to
8 for your consideration in this case. The Court, with
9 the assistance of Counsel, has prepared a Charge of
10 the Court. That's a document that we give you with
11 certain instructions and directions and definitions to
12 guide you during your deliberations. After I've read
13 that Charge to you, the attorneys will have the
14 opportunity to make closing arguments to sum up their
15 case. After that has been accomplished, then you will
16 retire to the jury room and it's at that time you'll
17 be able to start discussing the evidence, reviewing
18 the Charge and answering those questions that I give
19 you in the Charge towards concluding this case.

20 So, in Cause Number S-17-5182-CV-B,
21 Denise Marez, Individually and on Behalf of the Estate
22 of Juan Perez, Plaintiff, vs. Isaac G. Rodriguez, Sr.,
23 d/b/a I&R Trucking and Rodriguez Trucking, Defendant.
24 This is in the District Court of San Patricio County,
25 Texas, 156th Judicial District. Charge of the Court:

1 (Charge of the Court read to the jury at
2 this time by the Court.)

3 THE COURT: I will have for you, because
4 it's kind of a lengthy Charge here, photocopies of the
5 Charge that I just read. All of the copies will not
6 have the verdict certificate form. Only the original
7 will have that for your Presiding Juror to complete if
8 it's a unanimous verdict response to all ten -- I'm
9 sorry -- all of the questions that are posed or to be
10 signed off by ten or 11 of you if it's less than
11 unanimous. So you will have, each of you, a copy of
12 the almost complete Charge of the Court except for the
13 verdict form.

14 The attorneys will have an opportunity to
15 give you their closing statements; both have the same
16 side.(sic) As we had with all of the other
17 proceedings, the Plaintiff, as the party that's
18 brought this lawsuit, they have the opportunity to go
19 first. After they've completed their first part of
20 the closing arguments, then the Defense will have
21 their opportunity and then the Plaintiff will be able
22 to come back and sum up. Both of them, even though
23 we're breaking up the closing arguments, both of them
24 have the same time available to them.

25 So, Plaintiff, ready to go forward with

1 the closing statement?

2 MR. DUFF: Yes, Your Honor.

3 THE COURT: You may proceed.

4 MR. DUFF: May it please the Court?

5 THE COURT: Yes, sir.

6 MR. DUFF: Mr. Thomas?

7 Members of the jury, thank you again for
8 being here with us today. I think we all thought this
9 trial would be a little bit longer, but I'm glad that
10 you guys were patient with us yesterday, carefully sat
11 here and listened to all the evidence that we
12 presented to you. You know, yesterday when I was
13 talking with y'all, I said this wasn't a criminal
14 case. Y'all remember that? I said, you know, we
15 don't have to prove that they intended kill Mr. Perez.
16 But listening to the testimony yesterday, like many of
17 you, I was upset about what I was hearing from a lot
18 of the Defendants and the Defendants' family, how they
19 would contradict each other, how they would tell me
20 one thing during the deposition and say something else
21 to you on the stand. Borderline perjured testimony
22 from the Defendants.

23 This case is not a criminal case. It's a
24 civil case. We have to prove this case to you by a
25 preponderance of the evidence, and that's what we did

1 to you yesterday. We showed you the conduct of the
2 Rodriguez Trucking Company and how they managed their
3 company, how they managed their employees, what they
4 did not do to train Juan Perez, to give him safety
5 harnesses, to give him any kind of equipment to
6 protect him when he was working on that roof. That
7 was the sole and proximate cause of his death. They
8 sat here yesterday and told you that they had no idea
9 he was on that property. He had no business being
10 there. No one even saw him there. You heard Estefana
11 Rodriguez saying she had no idea. She showed up
12 early. No one was there. She went back to the
13 office. Never saw Juan Perez. We played you her
14 statement she gave to the Sergeant hours after they
15 showed up. She said, "Yeah, I walked on the property.
16 I saw Juan there with Rosario talking to my Dad.
17 They're all there." And 15 minutes later, he died.
18 Why did she tell you one thing on the stand and then
19 told the investigating officer something else? Ask
20 yourselves that. Where is this deception coming from?
21 And I think you saw from Isaac Rodriguez, Sr. that the
22 deception comes from the top. He controls his family,
23 his employees, the people he flies out here from
24 Mississippi to come and testify on his behalf. The
25 man that sat there and told you, "I drove here from

1 Mississippi. No one paid my gas. I'm just here
2 because I was a witness." No. You're here because
3 that man paid for your flight. Probably got a first
4 class ticket out here so he can testify and perjure
5 himself on the stand before you. Ask yourself, what
6 kind of company does that? They do that to you here
7 in San Patricio County, what are they doing to their
8 employees when no one's around?

9 Members of the jury, I put together a
10 little power point for you guys just so you can follow
11 along and see the evidence that was presented to you.
12 You saw this is the Defendants' property. This big
13 garage right here, a dozen tractor trailers. This is
14 also the premises where Juan Perez was working on the
15 roof, fell through the unguarded skylight and died on
16 the floor of Rodriguez Trucking. You heard that
17 there is a couple different Rodriguez Trucking
18 companies out there and they all store their trucks
19 here on the site, they say when it's raining, but this
20 is where the headquarters of this company is. This is
21 where they keep and store their assets. You saw that
22 there was hidden and dangerous conditions that existed
23 on this property. My Co-Counsel showed you the
24 pictures of underneath the roof where it was
25 completely rotted out. Mr. Rodriguez had seen them

1 every single day, walked under it, knew that this roof
2 was bad, but from the top, you don't know that. Looks
3 like a regular roof with sky-- with skylights. You
4 can't see that those skylights aren't guarded. Here's
5 Juan Perez up here fixing this roof, changing out
6 these skylights. It's a hidden danger when you're on
7 top of this roof and you don't see what's under your
8 feet, what can cause you to fall down 12 feet with
9 nothing there to catch you or protect you.

10 Members of the jury, look how rotted out
11 this roof is from underneath. Looking at this
12 picture, looks like it's going to collapse right now.
13 Did Mr. Isaac Rodriguez, Sr. warn Juan Perez about
14 this? No. You heard no testimony that once did he
15 ever tell Juan how dangerous this roof was. This was
16 hidden from him. Here, you see more beams. One at
17 the very top looks like it's barely hanging on. Mr.
18 Rodriguez knew about this, lived there, what did he
19 say, plus 25 years yesterday. Hasn't been changed,
20 been the same condition this whole time; walked on
21 that cement ground every single day and saw this
22 condition and failed to warn his employees about it.
23 Here, we have the picture of the rotted metal right
24 next to the skylights. Right there you see cracks,
25 seeing straight to the sky. This is a hidden and

1 dangerous condition that Juan knew nothing about,
2 something that he should have been told about, should
3 have been warned and protected against, but that's not
4 the way Rodriguez Trucking handles their business.
5 Here, you see the hole that Juan fell through, the
6 skylight that was not guarded, the citation that OSHA
7 gave to Rodriguez Trucking for not having the
8 skylights guarded. Mr. Rodriguez knew that these
9 skylights were dangerous. He knew that these needed
10 to be changed out and that's what Juan was up there
11 with Rosario to do, to change these out. As an
12 employer, you have a duty to your employees to provide
13 them a safe workplace. These regulations are put in
14 place by the Department of Labor so that employees
15 don't get injured and don't die at their employer's
16 place of business. Defendant Rodriguez disregarded
17 all of those regulations. He didn't care. He's going
18 to do how he's done it his whole life, however he
19 wants. Here, we have a picture of Juan laying on the
20 floor of Rodriguez Trucking under the skylight he fell
21 through; spread out, laying there for hours and hours,
22 until, as Rosario told you yesterday, until he came up
23 with a plan after he died. Y'all remember that
24 testimony? He said after Juan had fallen, after he
25 had already died, that's when they came up with their

1 plan to say he was trespassing, that no one knew he
2 was there, that he had no business being there.

3 Members of the jury, this is how Juan
4 looked in his last hours of life. While the
5 Defendants were scrambling around trying to figure out
6 what to do, what story to create, this is how he laid
7 there taking his last breaths of life.

8 Members of the jury, you'll see the death
9 certificate when you go back to the jury room. You'll
10 see that the sole cause of his death was that Juan
11 fell 12 feet from the roof onto concrete landing on
12 his back. You see the date. It happened on March
13 7th, 2015. Look at that time of injury; 12:53. What
14 time did Estefana say she showed up that morning?
15 Early at 6:00, 6:00 a.m. He died 15 minutes after she
16 showed up. What happened in those hours? Did they
17 tell you what happened in those hours? No. Because
18 that's when they were scrambling around trying to
19 figure out how they're going to escape liability, how
20 they're going to deceive the police officers that
21 showed up, how they're going to figure out what to do.

22 Members of the jury, it's been almost
23 four, five years since this happened. They've been
24 scrambling around and running, trying to escape
25 liability, but today is the day they answer. Today is

1 the day they pay for Juan's death. You'll see that
2 this was a work site found at 9692 County Road 803,
3 the place of Rodriguez Trucking was Juan's work site.
4 That is where he died.

5 You saw the several OSHA safety standards
6 that were violated by Rodriguez Trucking. Citation,
7 Notice of Penalty for Isaac Rodriguez doing business
8 as I&R Rodriguez Trucking at the site of Juan's death.
9 You didn't hear any testimony that they tried to
10 dispute these findings; they tried to appeal anything.
11 They paid these penalties because they knew that they
12 were wrong. You saw that OSHA found that these were
13 serious violations. An employee, a handyman replacing
14 skylights on the top of the shed roof was exposed to
15 fall hazards of greater than ten feet and the
16 skylights were not guarded against that. That right
17 there, that OSHA violation, is the sole cause of
18 Juan's death. You'll see in the records that we all
19 prepared for you that the employer at the time of the
20 inspection had no safety or health programs, no
21 training, nothing to provide his employees, no
22 harnesses, nothing. "Get up there and change my metal
23 sheets." Gave him nothing. OSHA also found that the
24 company's owner, Mr. Isaac Rodriguez, Sr., walked
25 through this property area daily and could have

1 easily, could have easily guarded against this.
2 Something that could have easily been done and we
3 wouldn't have been here today. Denise and Juan would
4 still be married, still have their life together.
5 Something that could have been easily done for 25
6 years that he had this property and he refused to do
7 it.

8 Members of the jury, yesterday I spoke
9 with you about the credibility of witnesses. I had a
10 feeling we were going to get some of that testimony
11 yesterday. I've been actively involved in this case
12 since almost day one. I'm the one that took all the
13 Defendants' depositions in this case. It was a
14 struggle and I'm sure you guys could have seen that on
15 the stand. They were changing up their stories. They
16 couldn't get it right, even after they saw someone
17 testify before them, their stories were still messed
18 up. They just couldn't keep their story straight
19 after five years. They come up with this lie right
20 after Juan passed away and it takes us five years to
21 flush this out because of their deception. Their
22 deception comes straight from the top, from Isaac
23 Rodriguez, Sr. The first witness after Denise you saw
24 yesterday was Estefana Rodriguez. She's the
25 proclaimed bookkeeper of Rodriguez Trucking. She

1 testified under oath during the first part of the
2 questioning that she didn't know Juan was there. She
3 showed up. She was by herself in the office. Said
4 she never saw Juan. And we played you Plaintiff's
5 Exhibit 10, which you'll have back in the jury room so
6 you can listen to again if you want, we have it on a
7 CD for you, and she's telling the Sergeant,
8 investigating officer, "Yeah, I saw him. He was there
9 right when I showed up." That's her first lie. She
10 also told you that he was only a truck driver; that
11 that's how they paid him, right? He didn't do any
12 labor work; he didn't do anything. But you'll see the
13 exhibits that he was paid for his labor. You heard
14 testimony from Denise that he actually built fences
15 for the Rodriguezs, that he cut grass, that he fixed
16 trucks for them. You'll see dozens of receipts saying
17 that he was doing labor and there is one that says
18 he's a laborer, did labor as a mechanic and there's
19 other ones that are just laborer, laborer, laborer.
20 He was a laborer for them. They put him to work as a
21 laborer. That was her second lie. Again, she said
22 she arrived up -- arrived early before Juan even
23 showed up. And I ask you, please, listen to that
24 Exhibit 10 again because you will see that her
25 testimony was perjured. She lied to you. She tried

1 to deceive you again, all at the behest of her father.
2 She said she called 911 immediately. That she showed
3 up, Juan died 15 minutes later and called 911
4 immediately. If she got there so early, why does the
5 death certificate say almost 1:00 p.m.? Again, ask
6 yourselves what happened in that time? What were they
7 doing? Why didn't they tell you what they were doing
8 during that time? That's where this all came from,
9 that's where this deception came from during that time
10 in that window when they had to figure out how to get
11 out of this.

12 Next you saw the colorful testimony of
13 Isaac Rodriguez, III. He told you that Juan only
14 drove trucks, and as you'll see in Plaintiff's Exhibit
15 16, that's not the case. He was a laborer. Said that
16 they'd see him cut grass out there, seen him do other
17 things other than just drive the trucks. Again, more
18 lies from the Rodriguezs. He also told you that OSHA
19 investigates every death no matter what. And you saw
20 when he was cross-examined when someone breaks into
21 your house, they trip and fall and die, OSHA's not
22 going to come out there and look at that, someone
23 breaking into your house, a trespasser. Why would
24 OSHA be there? OSHA is the Department of Labor.
25 They're for people that are doing work, like what Juan

1 Perez was doing for the Rodriguezs. He also said that
2 Juan was not allowed on the property that day. You
3 heard testimony from Rosario that he saw Juan there
4 talking with Isaac Rodriguez. No one kicked him off
5 the property. No one made a fuss. No one said, "Hey,
6 get out of here." He was allowed to be there. No one
7 told him to get off of that property, at all. No one
8 is saying that he's a trespasser. There won't even be
9 a question on the Jury Charge to answer if he's a
10 trespasser because there's not one piece of evidence
11 supporting that. He did tell you, though, that it
12 wouldn't surprise him that his father's trucking
13 company had serious safety violations. You saw that
14 with the OSHA violation that they received. He'd been
15 there throughout the years and knew that this place of
16 business had serious safety violations. Something
17 that he had to own up to. Finally, after
18 cross-examination, he had to admit that OSHA does not
19 investigate the deaths of non-employees. OSHA does
20 not investigate the death of people that are not doing
21 work for a business.

22 After Isaac Rodriguez, III, you saw Isaac
23 Rodriguez, Jr. testify. He told you OSHA was lying.
24 In his deposition, he said OSHA doesn't do a diligent
25 investigation. They don't know what they're doing.

1 They're lying to you, don't believe that OSHA report.
2 Ask yourselves who is really lying in this case, the
3 governmental entity that has no -- no dog in this
4 fight, doesn't care about this outcome, or a family
5 that's doing whatever they can to hide and shield
6 themselves from liability. He also told you that
7 Estefana called him to tell him about Juan's death.
8 When I asked him about that, why he didn't say that in
9 his deposition, he didn't have an answer for you.
10 Estefana did tell you that he called, that she called
11 Isaac, Jr. Another story that they made up. Another
12 story they had to try and figure out how to explain
13 this away. It just doesn't add up and doesn't make
14 sense. He also tried to tell you that he wasn't a
15 co-owner of Rodriguez Trucking, that he had his own
16 trucking. It's Isaac and Rodriguez, Jr. Transport
17 Company. I asked him over and over again. "Didn't
18 you say this in your deposition? Didn't you say this
19 in your deposition?" "Nope, that wasn't me." I had
20 to show him his testimony where he said, "I do
21 business as Rodriguez Trucking." They all shared the
22 same joint enterprise. They all use similar names to
23 try and deceive the public, but they're all the same
24 company, all the same property and assets. It's all
25 collected there, right there, where Juan died.

1 Next, you heard from Rosario Hernandez.
2 He told you he drove all the way here from
3 Mississippi, which was discredited by his boss, Isaac
4 Rodriguez, Sr., right after him saying that he flew
5 him out here. We have a man that came here saying
6 that he was not being paid for his testimony, but he
7 would do anything, anything to keep that money coming
8 in. Said he only saw Juan on the roof. When he first
9 started off his testimony, he said that he was
10 downstairs talking with Juan, with Isaac, Sr. Then he
11 starts changing again. Saying, "No, no. I never saw
12 him until I was on the roof. I saw him down when I
13 was looking at him talking to Isaac Rodriguez, Sr."
14 He flies out here from Mississippi. He can't get his
15 story straight because it happened so long ago that
16 all of the witnesses for the Defendants completely
17 contradict themselves left and right. However, he did
18 have to admit to you that he saw Juan and Isaac
19 Rodriguez speaking on the property. You heard Isaac,
20 Sr. yesterday say, "I had no idea he was there. He
21 had no business being there. I didn't want him
22 there." Why is he talking to Juan Perez? Why is he
23 having conversations with him? Why is Estefana saying
24 she saw them all talking together? There was no sign
25 of struggle, no hostile interactions, because Juan's

1 an employee; been working there for 17 years; a man
2 that it's not unusual to see him on the property; a
3 man that's there every day, Monday through Friday, at
4 5:30 in the morning trying to make money to support
5 his family. As I said, he would do anything to keep
6 his income from the Defendant. You saw him on the
7 stand struggling to answer questions, not keeping his
8 story straight, trying to remember what Isaac
9 Rodriguez, Sr. told him to tell him -- tell you-all at
10 this trial. Because he's on this flight, thinking,
11 "Okay, I need to get this story straight. Am I going
12 to remember exactly what he told me on March 7th,
13 2015, five years ago? You saw him. He did it. He
14 couldn't even remember how he got here. Next, which
15 is probably the most important part of his testimony,
16 that after Juan had fallen, after he said Isaac, Sr.
17 called him to come down, that is when they created
18 this story that he -- that Juan should not have been
19 there, that Juan was trespassing. After Juan had
20 already fallen, after they were trying to cover up
21 their tracks, that is when they created this story to
22 deceive Denise, to deceive police officers, to deceive
23 OSHA investigators and to finally deceive you 13.

24 Last, you heard Isaac Sr.'s testimony.
25 He told you he bought Rosario's flight for him to fly

1 out here to testify for you. Paid for his testimony.
2 It was money not well spent for him because that
3 testimony did not add up to his own testimony. He
4 also told you that his wife, ex-wife, been separated
5 for 30 years, that she is now the current owner of the
6 property where Juan died and you saw that he
7 transferred this property over to her nine days after
8 Juan died there. Tell yourself, Why is he
9 transferring property to his estranged wife he hasn't
10 talked to in 30 years? Why is he trying to hide
11 assets from people? Why is he telling you that she
12 paid him \$60,000 and then he gets to his deposition
13 testimony and says, "Oh, no, I just gave it to her. I
14 just gave it to her. I can give family anything. I
15 can give them \$100,000, \$500,000. I can do whatever I
16 want. It's my money." Why did he tell you that she
17 paid him \$60,000 and that he didn't need the money,
18 but he never received it? Just more deception from
19 the top from the boss, Isaac, Sr. He sat up there and
20 told you that he did not know Juan was on his property
21 that day. He heard his daughter testify, heard
22 Rosario testify, heard them say, "You're talking to
23 him. Juan was right there. You guys are having
24 conversations." Said he was back 300 yards on the
25 back side of his property and had no idea Juan was

1 there. Exhibit 10 that says -- Estefana said, "I saw
2 him talking with Juan and Rosario." They were all
3 talking about probably the plan to build this -- fix
4 this roof. Why is he telling you that he never saw
5 him on his property? Again, he said he did not speak
6 with Juan. His own family members, his own paid
7 witnesses even told you that he spoke with Juan. They
8 were having conversations.

9 Members of the jury, this just does not
10 add up. Again, he said he did not see Juan on his
11 property. The first sign he saw him -- excuse me --
12 the first time he saw him was someone thought he had
13 fallen off his roof. How does that make any sense if
14 he's having conversations with him prior to his death?
15 That was the story he came up with in the hours while
16 they were scrambling around and it just does not make
17 sense when you actually have people that are going to
18 check into it and check into his story, figure out
19 what was actually going on that day. He created all
20 this to deceive people like you.

21 Next, the Defendants kept saying that
22 Juan was not an employee; he had no business being
23 there. Juan had faithfully worked for them for 17
24 years. Nothing they showed you, not one exhibit
25 provided to you contradicted that. I believe Mr.

1 Rodriguez, Sr. said he's known him over 50 years,
2 known him since he was four years old. Ask
3 yourselves, Why are they saying he's not an employee?
4 Because that's the only way they can say he's a
5 trespasser. They try and say that he had no business
6 being there. "Oh, he was trespassing. We had no idea
7 why he was there." That's the only way they can think
8 to get out of this case, only way they can think to
9 not be charged for criminally negligent homicide. You
10 heard from Denise and she told you that Isaac
11 Rodriguez, Sr. would pick him up, pick Juan up for
12 work, take him to work, that he had worked for him
13 doing various labor tasks, being a truck driver for
14 the greater part of 17 years. Why are they saying now
15 that he's not an employee? What have they shown you
16 that he's not an employee? Not one thing, have they?
17 You heard from Denise and, you know, I've known Denise
18 for -- since we've had this case. This has been a
19 struggle for her. She's been suffering a lot, dealing
20 with her husband's death and I know it's hard for her
21 to take that stand and be here with people that she's
22 known her whole life, people that she feels is
23 responsible for her husband's death. She told you
24 that Juan had worked for the Defendant for 17 years,
25 that he was a faithful employee, a hard worker, wake

1 up early, come home late, do what he could to support
2 his family. She told you that he woke up at 5:30 in
3 the morning Monday through Friday, got his cup of
4 coffee, and kissed her good-bye. Told that you he did
5 labor work for the Defendant. You recall that story
6 when Isaac Rodriguez, Sr. left him out to build a
7 fence for him in the rain and he kind of had enough
8 and she came to pick him up. That's how they treated
9 this man. They didn't care about him. He was just a
10 piece of equipment to them.

11 I know the testimony was hard to hear,
12 but Denise was telling you that Juan was her source of
13 support, the love of her life. Members of the jury,
14 ask yourselves, you know, Denise was waiting her whole
15 life to find a man like Juan, the man that she loved
16 and that loved her and supported her. Finally got
17 married a little later on in life. That love was
18 taken away from her seven months after. A man she
19 waited for her entire life was ripped away from her
20 seven months after that because of how the Defendants
21 choose to handle their business. She told you that
22 she was there when Juan received the call from Isaac,
23 Sr. the night before his death. She (sic) gave him
24 instructions saying that he's going to be working on
25 the roof that day. You heard Juan was upset about

1 that. He said, "I'm not a roofer; mainly a truck
2 driver. I don't know anything about roofs." Like I
3 said in opening, you got to do what you got to do
4 sometimes to support your family. Your boss tells you
5 to do something, something reasonable, you do it
6 because that's your paycheck, that's your source of
7 income, that's how you're going to pay the bills, how
8 you're going to put food on the table for your wife
9 and kids. That's what Juan was doing. She also
10 testified that Isaac, Sr. would pick him up and take
11 him to work. Bring him to work for years and years
12 and years. Again, Juan was a hard worker and he did
13 anything he could to support his family. She also
14 told you that he had no other employers. You haven't
15 seen any evidence or any testimony that he had other
16 jobs, any other ways that he was working to bring food
17 home for his family. This is important because Juan
18 had one employer. He was an employee of one company,
19 and that's Rodriguez Trucking. Everything in this
20 case that we presented to you, every piece of
21 evidence, shows that he had one employer, and that was
22 Isaac Rodriguez, Sr. She said the first thing on her
23 mind when she wakes up is Juan; the last thing on her
24 mind before she goes to bed to this day is Juan. It's
25 been five years and it's still like that, ladies and

1 gentlemen of the jury. Five years of going to bed
2 with one person on your mind; five years of waking up
3 with one person on your mind. That was taken away at
4 the early age of 60 years old, something that could
5 have easily been guarded against, easily have seen and
6 easily have been prevented.

7 Members of the jury, I don't like using
8 the word "accident" because "accident" implies to me
9 that it was an act of God, something uncontrollable,
10 something that could not happen, but for something --
11 some unexpected event. When something like this is
12 preventable, when something like this is easily seen
13 and easily preventable, it's not an accident. It's
14 something that Mr. Rodriguez could have done,
15 something for 25 years to prevent. He chose not to.
16 He made the conscious decision not to prevent this
17 from happening. He knew the risks. He knew his roof
18 was rotting. He sent people up there to go fix it
19 without even a harness, without anything to catch
20 them. Ask yourself, is that really an accident? If
21 something can be that easily prevented, is that an
22 accident?

23 You go back to the jury room and you'll
24 see several paychecks from Isaac Rodriguez, Sr., doing
25 business as, Isaac -- or Rodriguez Trucking. You'll

1 see in Plaintiff's Exhibit 16 a lot of them say in the
2 bottom left corner, "labor". It says, "labor." He
3 was doing labor for them. He was a laborer. He was a
4 truck driver, you'll see plenty of those for sure, but
5 he also did labor for them. That's what he was hired
6 to do. If there weren't any loads to take, there
7 wasn't any -- He was a laborer. You'll see several
8 different pay stubs and paychecks and they might say
9 I&R Trucking or Rodriguez Trucking or some other
10 variation of that, but all have the same address, same
11 boss and same everything. Again, you'll see many pay
12 stubs saying he did labor for them. Labor on trucks.
13 He was paid seven dollars an hour to do all the work
14 that the Rodriguezs wanted him to do. Sometimes you
15 got to do what you got to do. You got to make money
16 how you can make it and that's what Juan was trying to
17 do on the date of his death; make some extra money to
18 support his wife and children.

19 Members of the jury, you heard testimony
20 after testimony, excuse me, that no one told Juan to
21 climb on the roof, that no -- he had no business being
22 up there. Ask yourself this. Why would someone wake
23 up at 5:30 in the morning and go to a place that he
24 worked for for 17 years if he had no business being
25 there? Why wouldn't he just stay in bed, sleep in,

1 have some coffee with his wife, go get breakfast? Why
2 does that make sense to leave the house at 5:30 in the
3 morning to go trespass and climb up on a roof? How
4 does that make sense, members of the jury?

5 On the Jury Charge, you'll see some
6 questions about gross negligence and I want to explain
7 that a little bit more in detail for you and in a
8 minute we'll go through the Jury Charge together. But
9 Isaac Rodriguez testified yesterday that he knew about
10 the rusty, deteriorated condition of his roof. He's
11 known about it for years. He didn't warn anybody
12 about it, didn't warn Juan Perez about it. His
13 knowledge of that fact is gross negligence. His
14 failure to easily -- to not easily prevent this from
15 happening, something that could have been easily
16 prevented from happening, his failure to do that, that
17 is gross negligence. You'll see on the Jury Charge
18 that it's not only what was in Mr. Rodriguez's mind,
19 the conscious indifference to Juan's safety, but it's
20 an objective determination, as well. What would a
21 reasonable person have done to prevent this from
22 happening? What would a reasonable employer, what
23 would they have done to protect their employee from
24 falling through a roof landing 12 feet on the ground?

25 As we said in voir dire and in my opening

1 yesterday, this is a civil case. We have to tip the
2 scales ever so slightly in our favor for you to check
3 "yes" on the Jury Charge. You 12 are on the sole
4 judge of all the credibility of the witnesses. If you
5 think that Rosario's perjured testimony does not hold
6 any weight, throw it away, disregard it. If you think
7 that Mr. Isaac Rodriguez, Sr. marched up his family
8 here to perjure themselves for you in a story that
9 just didn't add up, disregard it. You are the sole
10 judges of the credibility of each witness that took
11 that stand. That's a lot of power, ladies and
12 gentlemen.

13 Members of the jury, this is the Jury
14 Charge that Judge Flanigan just read to you a few
15 moments ago. This is the first question and it's
16 essentially whether Juan Perez was allowed to be on
17 this property, whether he was invited or whether he
18 had some reason to be there. All the evidence that
19 we've shown you shows that he was there for a purpose.
20 He was there at the request of Isaac Rodriguez, Sr.
21 He was there doing work for Isaac Rodriguez, Sr. He'd
22 have no other business being there, but to do work for
23 Isaac Rodriguez. So when you're back there
24 deliberating, going through all the evidence, all the
25 exhibits, you will see that all of the evidence in

1 this case supports you putting "yes" on Question
2 Number One.

3 Question Number Two deals with the
4 premises that Mr. Rodriguez owns; that if you believe
5 that Isaac Rodriguez, Sr. caused the death of Juan
6 Perez, you have to kind of check these off, that the
7 condition of the roof posed an unreasonable risk of
8 harm. You saw the pictures of the roof. We brought a
9 hundred pictures of them in the exhibit binder. Look
10 through them all. Look how unreasonable that roof
11 was. A task, sending someone that has no training in
12 roofing, has no safety harness, there is no sky
13 guards, how unreasonable is that to send someone up
14 there setting them up to fail? This was an
15 unreasonable risk of harm that Isaac Rodriguez, Sr.
16 sent Juan Perez to do.

17 The next one is whether or not Defendant
18 Rodriguez had knowledge of this dangerous condition.
19 Whether he walked on that floor every single day,
20 looked up, saw the rusted roof, and that's what
21 they're there for in the first place, right, to fix
22 the roof. He knew the roof was bad. It's been that
23 way for over 25 years. He had actual knowledge of
24 that danger and still sent him up there. And last, on
25 Question Number Two, whether Isaac Rodriguez failed to

1 exercise ordinary care to protect Juan from that
2 danger. And you'll see directly from the OSHA
3 citations that he could have easily protected Juan
4 from these dangers and chose not to.

5 You also did not hear any testimony that
6 he warned Juan Perez about these dangers, especially
7 someone's that's not even a roofer. Wouldn't you
8 provide them more information and say, "Hey, you know,
9 watch out for this area. I know you're not on roofs a
10 lot, but look out for this." He didn't provide one
11 thing to Juan. And, of course, we don't have Juan
12 here to tell us exactly what happened. We have the
13 Defendants' concocted story that doesn't make sense to
14 try and piece this all together. That's why the
15 burden of proof is a preponderance of the evidence.
16 It's a slight tipping of the scales, and if you do not
17 believe the Defendants' story in this case, the scales
18 tip in our favor. So when you're back there, Question
19 Number Two, the only answer that you can give based on
20 the evidence and the credibility of the witnesses is
21 to put "yes."

22 Members of the jury, this is another
23 question that we had to include on this Jury Charge.
24 There's been some testimony that Juan was not an
25 employee of Rodriguez Trucking, that, you know, he had

1 no business being there. And, again, ask yourselves,
2 What was he doing there, then? Why would he be there
3 if it wasn't to work; a man that had worked there for
4 17 years under an oral contract or implied agreement
5 with them, but he was there, showed up for work every
6 single day, drive trucks, build fences, cut grass, be
7 a mechanic, there every single day to do what the
8 Defendants wanted him to do. To say that he's not an
9 employee contradicts all the evidence that you-all
10 have in front of you. And I ask you to, please, go
11 through every single paycheck, every single pay stub
12 he has. For years, you'll see that he was an employee
13 working day-in and day-out for the Defendants. So
14 when you get to Question Number Three, we're going to
15 ask you to put "yes" because that's what the evidence
16 and credibility of the witnesses supports. If you
17 answer "yes" to this question, you're able to jump to
18 Question Number Five, but in the event one or two of
19 you do not believe he was an employee, you'll go to
20 this question. Question Number Four, it says, "For
21 each person you found caused or contributed to the
22 cause of this occurrence, find the percentage of
23 responsibility attributable to each." Ask yourselves,
24 Did you hear any evidence of how Juan caused this
25 accident? Did you hear anything how Juan caused his

1 own death; one piece of evidence? You saw the death
2 certificate. It said the sole cause of death was him
3 falling through the roof and onto cement ground. So
4 if you get to this question, the only answer that you
5 can put is what the evidence and the credibility of
6 the witnesses supports. That's a 100 percent on
7 Rodriguez Trucking.

8 And ladies and gentlemen of the jury,
9 this is the part where we talk about damages. In our
10 society, we don't have an eye-for-an-eye system. We
11 can't take a life when we lose a life. This is the
12 only way to compensate people for losing a loved one.
13 Denise can't come back here in 20 years, and we can't
14 all come back in here and sit you guys down and say,
15 "Hey, you guys, Denise still has a broken heart." She
16 still suffers every single day. She still wakes up
17 thinking about Juan and goes to bed thinking about
18 Juan. This is the only day we can help Denise out.
19 And, members of the jury, this isn't about what she's
20 going to get; it's about what she lost, what loss she
21 suffers every single day, what loss she's going to
22 suffer every day for the rest of her life. This is
23 her one day in court. Like I said, we all have a
24 right to a trial by a jury. This is it. This is her
25 one chance.

1 Members of the jury, the loss of
2 consortium simply means a wife -- a husband and wife's
3 relationship, the ins and outs, the goods and bads,
4 everything that makes it what it is; the affection,
5 the solace, the comfort, the companionships, the
6 society, assistance, the sexual relations, emotional
7 support, love, it's everything that comprises of a
8 successful relationship. And Denise got a late start
9 on it in life, but that still doesn't mean it should
10 be taken away from her. The time that she had with
11 her husband was great, but they were looking forward
12 to the next 20, 30, 40 years together. Members of the
13 jury, when you get to the loss of consortium question,
14 the only way to compensate her for this loss, we're
15 going to ask you to put two million dollars down for
16 her. It's her husband, her rock, her support, her
17 love.

18 The next question is pecuniary loss and
19 the Judge instructed you this is the loss of care, the
20 loss of maintenance and the support for her, the
21 advice and the counsel, the contributions. You heard
22 she depended on Juan for everything, that he was her
23 rock, her support. He gave her everything that she
24 needed. They had a life together and that was all
25 ripped away from her. Members of the jury, when you

1 get to pecuniary loss in the past, this is the loss
2 from the date of his death up until today, all the
3 loss that she sustained in this category from March
4 7th, 2015 to today. And in the past, we're going to
5 ask you to put \$500,000 for her, but this is what he
6 would have given her in the past -- in the past five
7 years, adding all that support and love and counsel.
8 There's no way to put that into an actual hard number,
9 say medical bills this or, you know, ambulance bills
10 this, but ask yourselves, What is that loss? How do
11 you measure that? When you get to pecuniary loss
12 sustained in the future, think about how long they
13 were going to live, how long they were going to stay
14 married, same love and support, services that she
15 would have received from her husband, same counsel,
16 contribution. We're going to ask you to put 1.5
17 million for the rest of her life for all the care,
18 maintenance and support she would have still been
19 receiving and would still receive in the future.

20 The next part of Question Number Five is
21 mental anguish sustained in the past. You remember
22 from voir dire about mental anguish and we asked you
23 how you felt about mental anguish and some people were
24 opposed to it, but mental anguish is the torment that
25 you have for losing someone that you love, the torment

1 that Denise has sustained in the past from March 7th,
2 2015 up until today for losing her husband. Members
3 of the jury, this again is not an ambulance bill, it's
4 not something that you put a number on, but ask
5 yourself, this number is waking up every single
6 morning with your husband not by your side. This
7 number is going to bed every night with your husband
8 on your mind. For this mental anguish sustained in
9 the past, I think a reasonable amount is \$500,000 for
10 her.

11 THE COURT: Fifteen minutes, Counsel.

12 MR. DUFF: Ladies and gentlemen of the
13 jury, the next question is going to be mental anguish
14 that she will sustain in the future. This number is
15 going to be similar to the one, Number Four, sustained
16 in the past, but Denise is going to have to carry this
17 with her for the rest of her life, the next 30 years,
18 this mental anguish. Like I said, it's not something
19 she can come back in, say, 20 years and go, My heart
20 is still broken. It's something that she needs
21 something today for. And we're going to ask 3.75
22 million for that, for all the mental anguish she's
23 going to suffer day-in and day-out for the rest of her
24 life.

25 Members of the jury, when you go back and

1 you look through all the receipts and you can average
2 up how much Juan was making, but for loss of
3 inheritance, this is the money that he was receiving
4 from the Rodriguezs, the money that he would have
5 given to his wife or shared with his wife in the
6 future. When you add these up, you're going to get
7 1.5 million for the next 15, 20, 30 years.

8 Question Six, this question deals with
9 Juan. This isn't -- this isn't about Denise. This is
10 about what Juan went through, the seconds of him
11 falling in the air, seconds of him going through the
12 skylight, seconds of him laying on this cold ground,
13 taking breaths in and out, breathing his last life's
14 of air. When you're in that situation, hopefully none
15 of us ever have to be, but in Juan's mind, your time
16 is so expanded that you are constantly suffering and
17 suffering and suffering and suffering until you
18 finally die. Every second is probably ten years of
19 his life. This pain he's going through, when is it
20 going to end? Him lying there bleeding out of his
21 mouth, eyes open, stomaching going up and down, lungs
22 going up with air and out, while the Rodriguezs are
23 scrambling around trying to cover this up, trying to
24 deceive us all. They're not doing CPR on him.
25 They're not putting him in the car and taking him to

1 the hospital. They said they called 911 and the
2 ambulance was far away. Put him in the car. Do what
3 you got to do. There's a man dying. For what Juan
4 went through at that time, the only reasonable amount
5 is 10 million dollars and that might not still be
6 enough. That is -- the conduct of the Defendants
7 letting him lie there, it's despicable.

8 The next question is going to be our
9 gross negligence question, and we went through all
10 these earlier. And you ask yourselves if they're
11 grossly negligent, if when they viewed this conduct
12 from the objective standpoint. And that's the
13 standpoint of all reasonable people. I think what
14 you've seen in this case, we're not dealing with
15 reasonable people here, but people that are
16 reasonable, you know, what would they have done in
17 this case? They wouldn't have done anything the
18 Defendants did. You got to ask yourselves whether
19 Isaac Rodriguez, Sr. had actual knowledge of this
20 risk, and you now know he knew exactly what was
21 happening and knew the risk, knew the dangers of Juan
22 being on that roof and didn't care; could have easily
23 prevented against it and just did not care. So when
24 you get to this question, we're going to ask you to
25 put "yes" because that's what the evidence and

1 testimony supports. Question Number Eight, this
2 question is for the damages of the gross negligence
3 section. This is a way to punish some serious
4 wrongful conduct, some serious perjured testimony,
5 this is a way to send a message to people like this,
6 to employers all around the world that -- all around
7 the country that you're not going to treat your
8 employees like this, not here in San Patricio County;
9 not going to let employers be like that. Consider the
10 nature of the wrong, how they let Juan lie on the
11 ground, the character of the conduct of the people
12 involved, the degree of culpability of the wrongdoer,
13 the situation and sensibilities of the parties and the
14 extent to which conduct offends the public sense of
15 justice and propriety. This conduct defends
16 everything that we consider to be sacred, consider to
17 be right versus wrong, moral. This is immoral conduct
18 by the Defendants. So when you get to this question,
19 the only reasonable amount to prevent this from
20 happening again, to teach employers it's not going to
21 happen, is 20 million dollars.

22 Members of the jury, my time's almost up
23 with you. My Co-Counsel is going to get up here in a
24 minute and rebut everything that the Defendant is
25 going to say. They're going to tell you that Juan

1 wasn't an employee, that he had no business being
2 there, but at the end of the day, you're the sole
3 judge of the credibility; you're the ones that are
4 going to give justice to Denise and bring justice for
5 Juan. Just remember, deception comes from the top,
6 everything that Isaac Rodriguez, Sr. said and did, he
7 controlled all the people below him and made sure that
8 they tried to escape liability, but we're not going to
9 let that happen today. Thank you for your time.

10 MR. HILLIARD: Your Honor, may we
11 approach briefly?

12 THE COURT: Yes, sir.

13 (Bench conference as follows:)

14 MR. HILLIARD: After Defense Counsel has
15 had an opportunity, I would make a request --

16 THE COURT REPORTER: I can't hear.

17 MR. HILLIARD: I want to make a request
18 for 15 minutes.

19 THE COURT: You'll get 15 minutes, yeah.
20 Go ahead.

21 MR. HILLIARD: Okay. Thank you, Judge.

22 (Bench conference concluded.)

23 MR. THOMAS: May I proceed?

24 THE COURT: Yes, sir.

25 MR. THOMAS: Please the Court? Counsel?

1 Good morning, ladies and gentlemen.
2 Again, I want to thank you and I thank you every day
3 of this process, but thank you for your attention and
4 for your participation in this very important case.
5 It was quick, but that doesn't lessen the importance
6 to the parties, obviously. You'll recall and it's in
7 your Jury Charge that we talked about on Monday about
8 not letting sympathy play a factor in your decision.
9 You got to rely on your logic and your reason and how
10 you view the evidence that was presented to you
11 because you are the sole judges of the credibility of
12 the witnesses and what to believe and what not to
13 believe, but I just want to remind you and, again,
14 it's in the Charge. Sympathy is not part of your
15 decision-making. I also want to talk about the Charge
16 and how it relates to the case and, unfortunately, I
17 don't have a slide show to show you, but I'm going to
18 read it to you anyway, the same Charge that the Judge
19 read to you before.

20 Question Number One, "On the occasion in
21 question, was Juan Perez an invitee or licensee on the
22 part of Isaac G. Rodriguez, Sr., doing business as I&R
23 Trucking and Rodriguez Trucking's premises under
24 consideration?" And it defines an "invitee" and a
25 "licensee." I think we have to -- the first thing we

1 have to do is we have to make a deferential between --
2 it's kind of a two-point fact question that we have in
3 this case, because Juan Perez was on the premises
4 apparently meeting with -- with Mr. Rodriguez. I
5 don't know if he was trying to get his job back or
6 what he was trying to do, but he was there on the
7 premises. That's a separate situation, I believe,
8 than climbing up on the roof. That's an intervening
9 fact or intervening set of circumstances. So,
10 permission to be on the premises there to meet is
11 different than permission to climb up on the roof, and
12 I want to point that out and I think that's kind of an
13 issue throughout this case. So, yes, Mr. Perez had
14 been a former employee of the Rodriguezs. He had
15 worked there off and on as a truck driver for 17
16 years. I don't think that was ever disputed. The
17 question was on that day in March of 2015 was he an
18 employee. And you have evidence presented to you and
19 you get to take this binder back and it contains the
20 documentary evidence that was presented to you; OSHA
21 reports, offense reports, check stubs, all of those --
22 that evidence that has been presented to you
23 demonstrates that, in fact, Mr. Perez was not an
24 employee at the time in question. We have paychecks,
25 and you'll see the last paycheck Mr. Perez received

1 was in January of 2015. We have an OSHA report. You
2 can read the OSHA report. Now, I think that the OSHA
3 report has been mischaracterized to you by the
4 Plaintiff's Counsel and what it actually pertains to
5 as far as the finding of a violation. The OSHA report
6 says there was a serious violation, that's true, but
7 it also talks about that's not the most serious type
8 of violation. It doesn't talk -- it talks about
9 grave, gravely serious violations, and this situation,
10 that's not what they found, ladies and gentlemen. The
11 OSHA report also tells you that there are no previous
12 violations at Mr. Rodriguez's business. Those are
13 factors for you to look at and talk about. Yes, the
14 OSHA report is concerned about the conditions found,
15 but the concern was for Rosario Hernandez, the
16 handyman who was actually on the roof, not for
17 anything relating to Mr. Perez's unfortunate death.
18 And I'll read to you right from the OSHA report. This
19 is the Exhibit Number 1 and it's Bates stamped page
20 number 58. "The employee worked at a high altitude on
21 roof skylights. Beneath skylight was concrete floor.
22 Non-employee fell through skylight and died. This was
23 not a common work task and only one employee was
24 exposed." That's in the report and you can read that
25 for yourself. The issue was for Mr. Hernandez.

1 Mr. Hernandez was the handyman that you heard about
2 throughout the trial and you'll notice there are no
3 paychecks for Mr. Hernandez, for Rosario. That's
4 because -- and you heard it from Mr. Rodriguez -- Mr.
5 Rodriguez paid him cash. He was not a truck driver
6 like Juan Perez. Juan Perez got paychecks because he
7 was a truck driver. Mr. Hernandez, Rosario, was a
8 handyman who got paid cash to do a different job.
9 There is also in here investigative reports from the
10 detectives and the police officers that arrived on the
11 scene. You can read those, as well, and they also
12 confirm that, in fact, as the result -- and this
13 investigation, remember, was conducted the day this
14 unfortunate event happened -- those reports also show
15 you that, in fact, Mr. Perez was not an employee on
16 the day in question. He had no business being up on
17 the roof. So, we have a question of is he an invitee
18 or licensee on the premises, which is the ground floor
19 which is where business takes place, which is where
20 the truck drivers assembled and left and got their
21 work and which is where Mr. Rodriguez lived and the
22 office was on the floor, and then we have this other
23 unrelated situation of the roof itself. And, you
24 know, it's kind of ironic and it's difficult because
25 we are stuck with these Jury Charges and how we do it.

1 And now I'm on Question Number Two and Question Number
2 Two is a question about negligence. I'll read it.
3 Please, bear with me. I know you've been talked to a
4 lot this morning. "Did the negligence, if any, of
5 Isaac G. Rodriguez, Sr., doing business as I&R
6 Trucking and Rodriguez Trucking proximately cause Juan
7 Perez's death in question? With respect to -- With
8 respect, excuse me, to the condition of the premises
9 Isaac G. Rodriguez, Sr., doing business as I&R
10 Trucking and Rodriguez Trucking was negligent if the
11 condition imposed an unreasonable risk of harm, and
12 Isaac G. Rodriguez had actual knowledge of the danger,
13 and Isaac G. Rodriguez failed to exercise ordinary
14 care and protect Juan Perez from the danger, by both
15 failing to adequately warn Juan Perez of the condition
16 and failing to make that condition reasonably safe."
17 It defines "ordinary care" and "proximate cause" for
18 you.

19 " 'Ordinary care' when used with respect
20 to the conduct of Isaac G. Rodriguez, as an owner of a
21 premises, means that degree of care that would be used
22 by an owner of ordinary prudence under the same or
23 similar circumstances." Well, you get to be the owner
24 of ordinary prudence. You get to decide. That's what
25 a normal person would do, a normal person. So if a

1 normal person was meeting with a former employee on
2 the ground of your business where your business is
3 conducted, would a normal, ordinary person be
4 concerned about your truck driver climbing up onto the
5 roof for some unexplained reason? I don't think so.
6 Remember, Mr. Perez was 60 years old. You heard
7 Mr. Hernandez, Rosario, describe his physical makeup.
8 He wasn't going to be on the roof to do any work.
9 That's not why he was there. It's unfortunate that,
10 you know, what civil trials sometimes reduce us to do.
11 You know, Plaintiff Counsel called Mr. Rodriguez a
12 liar, called his family liars and, you know, he's
13 trying to shift blame because they're looking to get
14 paid in this case, and you get to see them testify.
15 You got to see the family here throughout the three
16 days or two-and-a-half days we've been here, so you
17 decide, ladies and gentlemen. Do you believe that
18 family is a bunch of liars? Is that what you saw when
19 they testified and got on the stand? He can call them
20 liars. And let's think about it. He's accused them
21 of basically fabricating this story. Mr. Perez, they
22 discovered his body, and I believe the testimony was
23 911 was called and it took about seven minutes for the
24 police to arrive on the scene. So in seven minutes,
25 apparently, Plaintiff would have us believe that the

1 family huddled together and came up with this
2 concocted story to tell everybody. That doesn't
3 include the time that Estefana ran out to the street
4 to waive the police officer down to come back. So
5 less than seven minutes for the family to come
6 together and concoct this story, which they've stuck
7 to remarkably well from the entire time and you can
8 read that in the OSHA reports and in the police
9 reports. Those police reports were, obviously,
10 drafted the day this happened so that hasn't changed.
11 But Plaintiff wants to say, "Ah-hah, you're a liar
12 because your story that was recorded almost five years
13 ago today is a little bit different than your story is
14 now. Ah-hah, you're a liar."

15 The question is on the negligence -- and
16 I'm sorry we can't say, "Was Juan Perez negligent?"
17 Because, again, it's kind of a two-point discussion
18 here. No, there was no negligence for him to be on
19 the premises, down on the ground, talking to his
20 former boss, looking for a job back or whatever it was
21 he was doing there. The negligence occurred when he
22 climbed up on the roof without permission or without
23 reason. And you heard Rosario talk about that. And
24 it's ironic to me that Plaintiff wants to say, "Oh,
25 Rosario is just here talking about it because he wants

1 money." Well, what is it that the Plaintiffs are
2 asking you to do here today, ladies and gentlemen?
3 They're asking you to, basically, give them Mr.
4 Rodriguez's money, aren't they? What, 20 million
5 dollars they want in this case, but they're going to
6 criticize Mr. Rosario Hernandez for having his
7 gasoline paid for him to get here? Oh, he's just
8 after the money. That's ironic to me. It's a little
9 offensive. The question is, Was Mr. Rodriguez
10 negligent when it came to Juan Perez? And the answer
11 is, no, he wasn't. And if you answer "no" to Question
12 Two, that's the end of the process. You don't have to
13 answer anymore questions at that point. That's the
14 end of the discussion. If you feel like, perhaps, Mr.
15 Rodriguez had some negligence you would go to Question
16 Number Three. Question Number Three asks you about
17 the employee question. The evidence is right there
18 before you, non-employee on the date in question, not
19 for the last 17 years, from January of '15 back, but
20 on March -- the date of this question -- March, 2015,
21 was Juan Perez an employee? And the evidence is clear
22 that he was not. No paycheck. Offense reports or the
23 investigative reports tell you that and the OSHA
24 reports tell you that. So the answer to that question
25 is, no, he was not an employee.

1 Question Number Four, that's where you
2 attribute the percentage of negligence between the two
3 parties. So if you believe that Isaac Rodriguez had
4 some negligence in this case and you believe that Juan
5 Perez was not an employee, you answer Question Number
6 Four. And that's just numbers. You decide basically
7 the percentage of negligence each party is responsible
8 for. How much of it, the accident, was Juan Perez's
9 fault? How much of the accident was Isaac Rodriguez's
10 fault? And I would submit to you that there's nothing
11 that Isaac could have done to prevent Juan from going
12 up there short of, I guess, physically restraining him
13 from climbing the ladder to get up on top of the roof
14 that day. You heard Rosario Hernandez tell you, "I
15 told him five times to get down." Five times.
16 "You're not supposed to be up here." He didn't listen
17 to me. We don't know what was going on in Juan
18 Perez's mind. We don't know what he was doing.
19 Remember, the burden of proof in this case is not on
20 the Defense, it's not on Isaac Rodriguez. It's on the
21 Plaintiff. Plaintiff has the burden of proof. We
22 talked about that on Monday, not the Defense in this
23 case. You know, they talked about how Mr. Rodriguez
24 would go and pick Juan up. Well, I believe on this
25 day in question, and you can see it in the police

1 report, Juan apparently drove to the Rodriguez's site
2 there. His truck was left there, a white pickup
3 truck. I believe it's in the offense report. You can
4 read it and see. So that wasn't the normal situation
5 that they spent so much time talking about. And it's
6 unfortunate that our system is what it is. I mean,
7 it's all we have, you're right, but we talked a little
8 bit on Monday during the voir dire selection about
9 personal responsibility and taking personal
10 responsibility. And we have to shift blame in cases
11 like this, the Plaintiffs do. They have to shift
12 blame because, obviously, Juan Perez is the one who
13 caused this and Juan Perez is the one whose fault this
14 was, they don't get paid, ladies and gentlemen. So we
15 have to shift blame or they have to shift blame so
16 they can get the 25 million dollars they're asking you
17 to produce in this case. The question is if you're a
18 business owner, do you feel the need, if someone's
19 working on your roof and your business is on the
20 ground and you're conducting your business, do you
21 feel the need to warn every person that comes to your
22 business, "Hey, don't climb on the roof because
23 they're doing work up there." Does that make sense?
24 That's not the way it works in the real world. He had
25 no business being on the roof and that was told to

1 you. And your question is, Do you believe what Mr.
2 Rodriguez and his family told you, Mr. Hernandez, or
3 do you feel like they're liars, because that's the
4 Plaintiff's case, basically, from their own mouth.

5 I'm asking you to find that there was no
6 negligence on the part of Isaac Rodriguez. That's
7 Question Number Two. I'm asking you to answer that
8 question "no." Question Number -- if you believe
9 there is negligence on the part of Mr. Rodriguez, then
10 you go to Question Number Three. Juan Perez was not
11 an employee. The answer to that is "no." Question
12 Number Four you would put however much negligence you
13 believe each party is responsible for. But I believe
14 the answer to Question Number Two is "no" because
15 there wasn't negligence on that. This is not a
16 foreseeability that anyone could have taken into
17 account, because Juan Perez was a truck driver; not a
18 roofer, not a fence builder, not a mower and, again,
19 even -- even the labor that Plaintiff tried to talk
20 about, it's written down on the pay sheet, "labor on
21 trucks." That's what they told you about. Truck
22 drivers work on their trucks. That's -- yeah. But he
23 didn't do any labor around the building. That was
24 Rosario Hernandez's job and Rosario Hernandez got paid
25 cash because he was the handyman.

1 I ask y'all to take the discovery back
2 or, excuse me, the exhibits back with you. Read
3 those. There was no negligence in this case and I
4 want you to answer Question Number Two "no." Thank
5 you very much.

6 MR. HILLIARD: Brief rebuttal, Your
7 Honor?

8 THE COURT: Counsel, sum up.

9 MR. HILLIARD: May it please the Court?

10 THE COURT: Yes, sir.

11 MR. HILLIARD: Opposing Counsel? So I
12 guess as y'all were listening to Defense Counsel give
13 his closing argument just now, you may have seen out
14 of the corner of your eye, I was furiously writing on
15 about 27 different note cards. So I was trying to
16 take down each and everything that was said that was a
17 misrepresentation, that was unfair, that was
18 misconstrued, that was simply stated incorrectly from
19 what the facts and the evidence were in this case. It
20 got difficult towards the end. My hand started
21 shaking. I have about 20 note cards in front of me,
22 and in my limited time, I'm going to do my best to
23 give you the information that I believe you need when
24 you go back into the jury room in order to make the
25 right decision. The only thing that I'll agree with

1 what Defense Counsel said was about whether or not you
2 believe the Rodriguez family, each one of them that
3 took the stand, whether or not they told you the
4 truth. Because to be honest with you, if you do not
5 think that they were telling the truth -- and ladies
6 and gentlemen of the jury, when you swear under oath
7 in a deposition and you give an answer and then in
8 trial you take the same oath and give a different
9 answer, and you sit by those two different answers,
10 over and over and over, every single witness, that is
11 the definition of being untruthful. You don't have to
12 infer, jump to that conclusion. It is staring right
13 in the face. We approached every witness. We showed
14 them their sworn testimony, each and every one of
15 them.

16 Defense Counsel got up here and talked
17 about personal responsibility, and I'd like to talk
18 about personal responsibility. So, personal
19 responsibility is tough as a company owner, as a
20 business owner. I agree. There should be a limit.
21 It should not be a free-for-all. However, when you
22 have knowledge of a dangerous condition, a hidden
23 dangerous condition, that's the point you're in.
24 There's no way Mr. Perez could have seen from his
25 standpoint the rusted, deteriorated, the weakened, the

1 dangerous condition, but, you know who did? The man
2 who lived in that house, the Defendant, Isaac
3 Rodriguez, Sr. He testified that almost every day he
4 would walk through the house and he would look up. He
5 saw the rust. It was plain as day if you were beneath
6 the covered area, but Juan Perez was -- and if you
7 look at the pictures of the roof, you will absolutely
8 see that this was 100 percent not visible and not
9 clear if you are Juan Perez in this situation because
10 how are you supposed to know that there may be a small
11 area of this roof that could give way at anytime, that
12 could give way at anytime? The only question is does
13 the person who owns this property, this structure, who
14 hired workers to come onto this roof and fix this roof
15 because it was rotted and it was rusted, and you heard
16 Isaac Rodriguez, I believe it was the third or junior,
17 they said he was undergoing a repair and a remodel.
18 He had just started it when Mr. Perez was there that
19 day. The only question is whether or not that
20 individual and that company has a duty to inform the
21 workers of known dangers. We're not talking about any
22 extra -- extra duty that would make every employer in
23 the country liable. We're talking about the simple
24 safety of letting workers know when there is a
25 dangerous condition. And, ladies and gentlemen, look

1 no further than the OSHA Department of Labor whose
2 sole job is to come onto an accident site after
3 something happens and do an investigation. OSHA
4 issued citations in this case. Those citations are a
5 huge piece of evidence that need to be considered in
6 your deliberations when you're deciding whether or not
7 Isaac Rodriguez, Sr. and company acted as a normal,
8 reasonable, prudent company would. The answer lies in
9 the citation. Find the violation serious. "An
10 employee handyman replacing skylights on top of the
11 shed roof was exposed to fall hazards of greater than
12 ten feet." That's your explanation. That's
13 negligence. And Mr. Duff took you through the Jury
14 Charge and the question that you have is with respect
15 to the condition of the premises of Isaac Rodriguez
16 d/b/a I&R Trucking was negligent if the condition
17 posed an unreasonable risk of harm. Mr. Perez fell
18 through the roof. The evidence has been established
19 that there was an unreasonable risk of harm because it
20 was a hidden danger. Isaac Rodriguez got on the stand
21 and told you, ladies and gentlemen, that he knew about
22 this dangerous condition for years before. He had
23 lived there for 25 years. He said he had seen the
24 rust. And as my Co-Counsel said, there's no evidence
25 or testimony that Juan Perez received any warnings

1 whatsoever.

2 Now, I want to talk about what elevates
3 this case from a negligence case to a gross negligence
4 case because this wasn't just like Defense Counsel
5 tried to paint it, an accident. When you consciously
6 and deliberately make a decision to ignore safety
7 rules with the knowledge of the risk that it presents
8 to human life -- What are the safety rules? I have
9 them right here. The OSHA regulations are the safety
10 rules. It was a willful, deliberate decision to
11 ignore these simple safety rules. You're above ten
12 feet, you have to have fall protection equipment.
13 That's the only safety rule that applied to the work
14 that was being done. Now, I understand Defense thinks
15 or asserts that this citation, the citation in
16 question, isn't referring to Mr. Juan Perez. Let me
17 get it up for y'all. So Defense Counsel said, you
18 know, this employee, this handyman, that was Rosario.
19 That was Rosario Hernandez. Ladies and gentlemen of
20 the jury, with respect to Defendants' conduct in this
21 case and exposing workers to dangerous conditions on
22 this job site, even if you are of the opinion that it
23 was Rosario, does it matter? Because this is a
24 dangerous condition of which an employee was exposed.
25 And by the way, it was Juan Perez, but even if you're

1 taking any credibility to their story, the dangerous
2 condition and the failure to follow safety rules still
3 exists.

4 Now, I want to talk briefly about what
5 elevates this case to gross negligence. As I stated
6 before, when you come to court, like the Defendants
7 did and their witnesses, let's just use this simple --
8 a made-up story, it was a made-up story. The problem
9 with a made-up story that is built on lies is that,
10 you know, the court system in America is designed to
11 seek the truth. Oftentimes that's exactly what you
12 end up getting. You end up getting the truth. And
13 when the witnesses take the stand and they take an
14 oath, and one lie begins another lie, and all of a
15 sudden it gets difficult for each of the accomplices
16 to keep their story straight. And as you saw
17 yesterday, that house of cards, it fell pretty hard.
18 When Isaac Rodriguez, III took the stand, the truth
19 came out. As I was asking him questions, I believe it
20 was apparent to everybody in the room that the truth
21 came out and he didn't like it. Because when you come
22 to court and you try to pull one over on the jury's
23 head, on the lawyer's head, it doesn't feel good when
24 the house of cards came tumbling down for Defendants.

25 Cannot emphasize enough what it means

1 that y'all are the sole judges of the credibility.
2 You have the power to go back in that room and say,
3 "You know what? I don't believe this individual's
4 testimony. I don't think they're credible." It is
5 your power, as a juror, to say, "I'm not going to
6 consider it. I know what they said, but I don't find
7 it credible." It is within your discretion to
8 completely disregard. And because all the witnesses
9 aren't credible, what Defense Counsel just got up here
10 and said to you is based on that same house of cards,
11 the cards of lies that -- that toppled down yesterday.

12 I want to lastly discuss the issue of
13 damages with you. When you think about damages when
14 you're back in the jury room here in just a few
15 minutes, I really want you to remember, because it's
16 very important, that it's not about how much Denise
17 Marez is going to get; it's about how much was taken
18 and what is a fair and reasonable compensation for
19 that loss, for what was taken from her, which was the
20 life of her husband. Separately, there are damages
21 for her husband's loss of life, which was taken
22 unnecessary -- unnecessarily, avoidably, preventable.
23 It was preventable, ladies and gentlemen. That's the
24 bottom line in this case. It was so preventable. You
25 know, the civil justice system, it doesn't provide for

1 an eye-for-an-eye type justice. It only -- you know,
2 we can't take the lives, nor would we, of the
3 Defendants. That's not the type of justice that we
4 live in. That's barbaric, but what we don't believe
5 in is turning the blind eye to justice, because that's
6 no justice at all.

7 Today, we're going to ask you don't turn
8 a blind eye to justice, because wrongful conduct is
9 here. You've heard it. The evidence, the facts, the
10 testimony came quick yesterday, but you have the tools
11 that you need to make a verdict in this case.

12 So my 15 minutes is almost up. I wish
13 that I could spend more time with you and go over each
14 and every thing that I disagreed with or I say is
15 absolutely untrue that Defense Counsel just got up
16 here and told you. Some of the things that he said, I
17 found offensive. I wish I could go point by point,
18 but the time is about here, that this case, justice in
19 this case -- because justice is either going to be
20 found or it's not going to be found. It is in your
21 hands. The life of Juan Perez is in your hands. The
22 justice that Denise Marez seeks is in your hands and
23 so, ladies and gentlemen, for Juan Perez, for Denise
24 Juarez -- Marez, please, please, render a verdict that
25 reminds the Defendants that the truth still matters.

1 Thank you.

2 THE COURT: All right. Thank you,
3 Counsel. Do you have the copies?

4 THE COURT CLERK: Yes.

5 THE COURT: All right. Ladies and
6 gentlemen of the jury, I'm going to turn you over to
7 the bailiff now to retire to the jury room and begin
8 your deliberations. Our alternate, Ms. Gordon, you'll
9 remain with us. The balance of the jury, please,
10 follow the bailiff.

11 THE BAILIFF: All rise for the jury.
12 Just wait for me out in the hall.

13 Can they take their notes with them?

14 THE COURT: They can take their notes
15 with them.

16 THE BAILIFF: Okay.

17 (Jury leaving courtroom.)

18 MR. THOMAS: They didn't take the binder.
19 Are you going to send that up?

20 THE COURT: I'll have the clerk take that
21 up. Typically, I'll wait for the request, but anybody
22 have any objection to me just going ahead and sending
23 that up right now?

24 MR. HILLIARD: That's fine with us, Your
25 Honor.

1 THE COURT: Okay. I'll let the clerk
2 take that up in just a minute. We'll be in recess,
3 then, until we hear from the jury.

4 (Jury out.)

5 THE COURT: Ms. Gordon, you don't have to
6 remain in the courtroom. You can be free to walk
7 around. I'm going to ask you to stay in attendance
8 until we do get a verdict from the jury. Don't talk
9 to anybody. Don't let anybody talk -- well, about the
10 case, certainly. Don't let anybody talk to you about
11 the case or the proceedings. Do you understand?

12 ALTERNATE JUROR: (Shaking head.)

13 THE COURT: Yes?

14 ALTERNATE JUROR: Yes.

15 THE COURT: All right, thank you.

16 All right, we're in recess.

17 ALTERNATE JUROR: So I can go out of the
18 courtroom?

19 THE COURT: You can go outside if you'd
20 like. Please, stay on this floor, though, so we can
21 get a hold of you if we need to for some reason.

22 We're in recess.

23 (In Recess.)

24 (Jury in deliberations.)

25 THE COURT: All right. We have a --

1 everybody here that needs to be here for receiving the
2 verdict?

3 MR. THOMAS: Yes, Your Honor.

4 MR. DUFF: Yes, Your Honor.

5 THE COURT: Let me go check on them
6 upstairs.

7 (Brief Recess.)

8 THE COURT: All right. I asked the jury
9 what their preference was. They wanted to go ahead
10 and come in and render -- or give us the verdict.
11 Food was just coming upstairs as I was visiting with
12 them or asking what their preference was, so we'll get
13 the verdict from them, give them the releases I talked
14 to you about doing and then we'll have some lovely
15 parting gifts for them. We've got all of their food
16 packaged up and ready for them to take with them or
17 eat while they're visiting with you, however they want
18 to deal with that.

19 MR. HILLIARD: Thank you, Judge.

20 MR. DUFF: Will we be doing the visiting
21 here in the courtroom or somewhere else?

22 THE COURT: No. If you go outside, there
23 are several places right outside the District Clerk's
24 office way at the end of the hall. There's some
25 benches, wherever you and they are comfortable.

1 MR. DUFF: Thank you.

2 THE COURT: One thing I will have to
3 visit with you about regarding, --

4 THE BAILIFF: Ready?

5 THE COURT: -- and I don't know what the
6 results are, obviously, but we'll need to see about
7 scheduling some further hearings regarding a judgment
8 based on the results that we get. Yeah, they can come
9 on in.

10 MR. DUFF: Okay.

11 THE BAILIFF: Come on in.

12 (Jury in.)

13 THE COURT: All right. Be seated,
14 please. Ladies and gentlemen of the jury, I've
15 received some word through the bailiff indicating that
16 you have reached a verdict in this case, is that
17 correct?

18 PRESIDING JUROR: We have, Your Honor.

19 THE COURT: And you are the foreman or
20 the Presiding Juror?

21 PRESIDING JUROR: Yes, sir.

22 THE COURT: And was this a unanimous
23 verdict?

24 PRESIDING JUROR: Yes, sir, it was.

25 THE COURT: All right. So you have

1 signed the verdict form as the Presiding Juror on
2 behalf of the entire jury, is that correct?

3 PRESIDING JUROR: Yes, sir, I have.

4 THE COURT: All right. Would you hand
5 the verdict to the bailiff, please.

6 (Handed to bailiff; then to the Court.)

7 THE COURT: Thank you very much.

8 All right. To Question Number One, the
9 answer is "yes". Question Number Two, answer is
10 "yes". Question Number Three, answer is "yes".
11 Question Number Four is skipped. Question Number
12 Five, Subpart Number One, \$250,000; Subpart Number
13 Two, \$250,000; Subpart Number Three, \$500,000; Subpart
14 Number Four, 4 million dollars; Subpart Number Five is
15 2 million dollars. Question Number Six, 1 million
16 dollars. Question Number Seven, answer is "yes".
17 Question Number Eight, 10 million dollars.

18 Did I read all of those responses
19 correctly?

20 PRESIDING JUROR: So far, I believe.

21 THE COURT: Okay. I think I've got
22 through all of them.

23 Does the Plaintiff wish to examine the
24 verdict form?

25 MR. HILLIARD: Yes, Your Honor

1 MR. DUFF: Yes, Your Honor.

2 MR. HILLIARD: Thank you.

3 (Pause.)

4 MR. HILLIARD: Thank you, Your Honor.

5 THE COURT: Do you wish to poll the jury?

6 MR. HILLIARD: I apologize, do we wish to
7 poll the jury?

8 THE COURT: Do you wish to poll the jury,
9 make sure that that is the correct verdict for each of
10 the individual jurors?

11 MR. HILLIARD: Your Honor, may we
12 approach?

13 THE COURT: Yes.

14 (Bench conference as follows:)

15 MR. HILLIARD: Your Honor, I apologize,
16 I'm not sure if I -- can you clarify?

17 MR. THOMAS: I'm going to ask to poll the
18 jury --

19 THE COURT: Okay. All right.

20 MR. THOMAS: -- so you don't have to.

21 THE COURT: Go ahead. Thank you.

22 (Bench conference concluded.)

23 THE COURT: All right. Mr. Thomas, do
24 you wish to examine the verdict form?

25 MR. THOMAS: No, Your Honor.

1 THE COURT: Do you wish to poll the jury?

2 MR. THOMAS: I do.

3 THE COURT: All right. Ladies and
4 gentlemen of the jury, I'm going to go one by one
5 calling out your jury place number asking you whether
6 or not this is, in fact, all of the responses that I
7 read into the record based on what was written in the
8 verdict form, if that is your individual verdict, as
9 well. Do you understand my question? That's what
10 polling the jury is. Basically, I'm asking for
11 responses from each of you individually if this is, in
12 fact, your individual verdict, okay?

13 Juror No. 1?

14 JUROR NO. 1: Yes.

15 THE COURT: Juror No. 2?

16 JUROR NO. 2: Yes.

17 THE COURT: Juror No. 3?

18 JUROR NO. 3: Yes.

19 THE COURT: No. 4?

20 JUROR NO. 4: Yes.

21 THE COURT: Juror No. 5?

22 JUROR NO. 5: Yes.

23 THE COURT: Juror No. 6?

24 JUROR NO. 6: Yes.

25 THE COURT: Juror No. 7?

1 JUROR NO. 7: Yes.

2 THE COURT: Juror No. 8?

3 JUROR NO. 8: Yes.

4 THE COURT: Juror No. 9?

5 JUROR NO. 9: Yes.

6 THE COURT: Juror 10?

7 JUROR NO. 10: Yes.

8 THE COURT: Juror 11?

9 JUROR NO. 11: Yes.

10 THE COURT: Juror 12?

11 JUROR NO. 12: Yes, sir.

12 THE COURT: All right. With that, the
13 Court is going to accept the verdict as it's been
14 completed, signed by the Presiding Juror and confirmed
15 by you just now.

16 With receipt and filing of this verdict
17 form, your duties as jurors for this case is
18 concluded. Up to this point, you've been under
19 restrictions and directions from me not to discuss
20 this case until the end of the trial and you were in
21 the jury room all together during your deliberations.
22 In just a minute when I excuse you, you're no longer
23 under those restrictions. What that means is you're
24 free to discuss this case, the proceedings, the
25 witnesses, the attorneys, me, anything about this case

1 that you might want to discuss with anybody, including
2 the attorneys. You're able to discuss that with them
3 or you're able to decline to discuss any of those
4 matters with them. It's all up to you. Sometimes
5 attorneys will want to visit with you about the
6 proceedings, what you felt about the presentation of
7 the evidence, what you felt about the witnesses, all
8 of that towards better understanding what was going on
9 in the jury room so that they might utilize that in
10 the future in regards to other cases that may be
11 presented here in court or that they may be involved
12 in.

13 Again, when I release you, you're free to
14 visit with them if you'd like to or if you would
15 rather not, you are free to decline, either today
16 right after I release you or sometime in the future.
17 Does everybody understand that?

18 (Group answer of "yes, sir.")

19 THE COURT: Okay. Thank you very much
20 for your jury service. I know that this went along
21 fairly quickly, more quickly than we expected, but it
22 was a very important case. I appreciate your
23 attention, your consideration, your deliberation, the
24 work that you put forth in reaching a verdict in this
25 case. We can't do a lot of these matters without you,

1 so showing up as you did being more or less willing
2 participants in the jury process, I do appreciate it.
3 Unless there's anything else from Counsel, I'm going
4 to discharge you. If you need an excuse from the
5 clerk regarding an excuse from work, if your spouse
6 needs to know where you've been, somebody needs a
7 paper from you, you can get that from the District
8 Clerk's office. Thank y'all very much. You're
9 discharged.

10 THE BAILIFF: All rise for the jury.
11 I'll need your jury pins.

12 (Jury discharged and exiting courtroom.)

13 THE COURT: Oh, yes, I forgot to tell
14 you. Lunch is right outside for you. Again, if y'all
15 are willing to visit with the attorneys, I know they
16 had made a request to visit with some of you if you'd
17 like to, if you could hang around to visit with them.

18 (Jury out.)

19 THE COURT: All right. Counsel, be
20 seated. We will have to do some scheduling regarding
21 fashioning a judgment in line with the answers
22 received from the jury and their verdict. I don't
23 have a whole lot of opportunity before the end of the
24 year, so I think we're looking at sometime in January.
25 January 10, how does that look?

1 MR. THOMAS: What day is that, Your
2 Honor?

3 THE COURT: That's a Friday.

4 MR. HILLIARD: Could -- What would be the
5 first date after January 10th? If it's a long way
6 into the future, then I'll --

7 THE COURT: Let me check and see.

8 MR. HILLIARD: Judge, sorry, we're good
9 on the 10th.

10 THE COURT: I've got -- the 10th is
11 pretty full. You want to try the 17th? That's the
12 end of a jury week.

13 MR. HILLIARD: You said the 10th is full?

14 THE COURT: The 10th I've already got 41
15 cases.

16 MR. DUFF: Your Honor, would it be a
17 morning setting or afternoon?

18 THE COURT: It would have to be a
19 morning. I've got 26 cases set for the afternoon.
20 Those are all criminal announcements anticipating a
21 jury trial. The 17th?

22 MR. HILLIARD: Works for Plaintiffs.

23 MR. DUFF: Yes.

24 MR. THOMAS: That's fine, Your Honor.

25 THE COURT: Or I can do the 7th.

1 MR. HILLIARD: The 7th?

2 THE COURT: January 7th in the afternoon,
3 how about that?

4 MR. HILLIARD: The 7th works perfect for
5 me.

6 MR. THOMAS: That's a Tuesday?

7 THE COURT: That's a Tuesday.

8 MR. THOMAS: That will work.

9 THE COURT: You want to try that? Okay.

10 MR. DUFF: That works.

11 THE COURT: We'll set this for January 7
12 at 1:30. As soon as I get a clerk in here, we'll get
13 you that setting notice in writing.

14 THE BAILIFF: She just came in and left.

15 THE COURT: Anything else before we
16 excuse for today?

17 MR. HILLIARD: No, Your Honor.

18 MR. DUFF: No, Your Honor.

19 THE COURT: All right. We're in recess.
20 Thank y'all very much.

21 MR. DUFF: Thank you.

22 (Brief Recess.)

23 (Off-the-record discussion.)

24 THE COURT: Pretty-much entry, unless
25 there's any issues regarding the particulars of the

1 proposed judgment.

2 MR. THOMAS: Okay. Right.

3 THE COURT: I'm going to suggest that
4 y'all get a --

5 MR. THOMAS: And I don't want to speak
6 for the Court, but sometimes when everyone signs off,
7 you don't even have a hearing, correct?

8 THE COURT: Yeah. If the form of the
9 judgment is agreed to, I won't have to have anybody
10 here for that day.

11 MR. HILLIARD: If the full amount of the
12 judgment, you said?

13 THE COURT: If the --

14 MR. THOMAS: Form.

15 MR. HILLIARD: Form of the judgment.

16 THE COURT: If the form of the judgment
17 is agreed to by everyone and signed off by the parties
18 and their attorneys as to form, then nobody needs to
19 necessarily show up in court on that date, okay?

20 MR. HILLIARD: Thank you, Your Honor.

21 THE COURT: I suggest y'all get a
22 photocopy of the judgment so that you can work from
23 that.

24 MR. HILLIARD: I think we're going to
25 stick around. We're just going to go try and talk to

1 the jury before they leave.

2 THE COURT: Okay. You can visit with the
3 clerk about getting a photocopy if you need one.

4 Thank y'all very much.

5 (END OF PROCEEDINGS.)

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1 THE STATE OF TEXAS)

2 COUNTY OF SAN PATRICIO)

3 I, Kori Luckenbach Hosek, Official Court
4 Reporter in and for the 156th Judicial District Court of
5 Aransas, Bee, Live Oak, McMullen and San Patricio Counties,
6 State of Texas, do hereby certify that the above and foregoing
7 contains a true and correct transcription of portions of
8 evidence and other proceedings requested in writing by counsel
9 for the parties to be included in this volume of the Reporter's
10 Record, in the above-styled and numbered cause, all of which
11 occurred in open court or in chambers and were reported by me.

12 I further certify that this Reporter's Record of
13 the proceedings truly and correctly reflects the exhibits, if
14 any, admitted by the respective parties.

15 I further certify that the total cost for the
16 preparation of this Reporter's Record is \$837.00 and was
17 paid/will be paid by Mr. Alex Hilliard, attorney.

18 WITNESS MY OFFICIAL HAND this the 28th day of
19 January, A.D., 2020.

20

21

/s/ Kori Luckenbach Hosek

22 KORI LUCKENBACH HOSEK, CSR, Texas CSR #4627

Expiration Date: 07/31/2021

23 Official Court Reporter

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